

REMARKS

Reconsideration and further examination of this application is hereby requested. Claims 1, 2, 4, 15, 30, 32-34, and 36-39 are currently pending in the application.

Amendments to the claims have been made according to the recently announced revised amendment format. See Amendments in Revised Format Now Permitted, 1267 O.G. 106 (Feb. 25, 2003).

**A. The Obviousness Rejections**

Claim 1, 2, 4, 5, 15, and 30-39 have been rejected under 35 U.S.C. § 103(a) as being obvious over Haluska et al. (US 4830006). Claim 1, 2, 4, 5, 15, and 30-39 have been rejected under 35 U.S.C. § 103(a) as being obvious over Gilli (US 5209229). These rejections are respectfully traversed based on the following arguments.

In order for a patent claim to be obvious, the prior art must teach or suggest each and every limitation recited in the claim. That is because the claim must be considered as a whole.

Independent claim 1 (as amended) recites the limitation that "the first phase polarity is positive" in the last line. Independent claims 32 and 37 (as amended) also recite similar limitations. These limitations are not taught or suggested by the prior art.

The Haluska '006 reference does not teach this limitation.

The Examiner notes that Haluska '006 teaches that various phases can be applied for stimulation of the heart. However, Haluska '006 does not go so far as to actually disclose specifically stimulating the heart with a biphasic waveform wherein the first phase of stimulation has a positive polarity.

The Gilli '229 reference does not teach this limitation. The Examiner notes that Gilli '229 suggests that the stimulation waveform be biphasic. However, Gilli '229 does not go so far as to actually disclose specifically stimulating the heart with a biphasic waveform wherein the first phase of stimulation has a positive polarity.

At the time of Applicant's invention, the conventional wisdom in the art held that it would not be appropriate to make the first phase of a biphasic stimulation pulse have a positive amplitude. Nothing in either of the Haluska '006 or Gilli '229 references provides a suggestion sufficient to have lead a person of ordinary skill in the art to disregard the conventional wisdom of the time.

The Examiner notes that "a number of ways of insuring capture are known in the art, including ... applying different waveforms with varying shapes and tilt." See Paper No. 5 at page 4. Although that is true in the present tense (as phrased by the Examiner), at least in part because of the teachings brought to

the art by the Applicant, at the time the claimed invention was made the prior art did teach or fairly suggest antitachycardial pacing with a biphasic waveform having a positive polarity first phase.

For the above reasons, Applicant respectfully submits that the prior art does not establish a prima facie of obviousness with respect to pending claims 1, 2, 4, 15, 30, 32-34, and 36-39.

**B. Closing**

In view of the above, Applicant respectfully submits that independent claims 1, 32, and 37 are patentable over the prior art of record. Applicant further submits that dependent claims 2, 4, 15, 30, 33, 34, 36, 38, and 39 are patentable, at least as being dependent from patentable independent claims, and are further patentable due to the additional limitations recited therein.

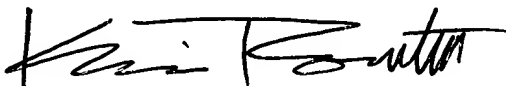
For the above reasons, Applicant respectfully submits that the application is in condition for allowance with claims 1, 2, 4, 15, 30, 32-34, and 36-39. If there remain any issues that may be disposed of via a telephonic interview, the Examiner is kindly invited to contact the undersigned at the local exchange given below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
Appln. No. 09/929,478

PATENT APPLICATION

The Director of the U.S. Patent & Trademark Office is  
authorized to charge any necessary fees, and conversely, deposit  
any credit balance, to Deposit Account No. 18-1579.

Respectfully submitted,



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